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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

MAX SHNETMAN,

Plaintiff,

-against-

2100 WHITE PLAINS ROAD, LLC. GALAXY  
MANAGEMENT, INC. "JOHN DOE", and JANE DOE,  
INC." (Said names being fictitious it being the intention of  
plaintiff to designate any and all owners of 2100 White Plains  
Road being sued herein),

Defendants.

-----X  
2100 WHITE PLAINS ROAD, LLC., and GALAXY  
MANAGEMENT, INC.,

Third-Party Plaintiffs,

-against-

UNITED STATES OF AMERICA,

Third-Party Defendant.  
-----X

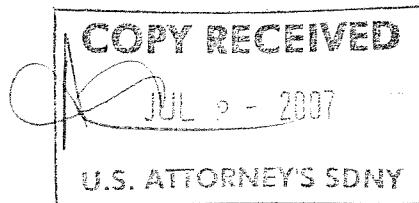
**NOTICE OF MOTION FOR  
DEFAULT JUDGMENT  
AGAINST THIRD PARTY  
DEFENDANT**

**Index number: 18068/2004**

**Index number: 85952/07**

**Return Date: 7/24/07**

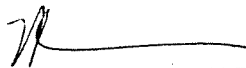
PLEASE TAKE NOTICE, that upon the annexed affirmation of RIK A. BACHMAN  
of the LAW OFFICE OF THOMAS K. MOORE, representing defendants/third party  
plaintiffs, 2100 WHITE PLAINS ROAD, LLC. and GALAXY MANAGEMENT, INC., and  
upon the pleadings and proceedings had herein, the undersigned will move this Court at an  
IAS Part, thereof, to be held at the Courthouse located at Supreme Court, BRONX County,  
851 Grand Concourse, Bronx, New York on the 24th day of July, 2007, at 9:30 o'clock in the  
forenoon of that day or as soon thereafter as counsel may be heard for an Order directing the  
entry of default judgment in favor of defendants/third party plaintiffs, and against the third-



party defendant, UNITED STATES OF AMERICA, and for such other and further relief as to this Court may deem just and proper.

PLEASE TAKE FURTHER NOTICE, that pursuant to CPLR 2214(b), all papers and affidavits, if any, to be submitted in opposition to this motion, are required to be served upon the undersigned at least seven (7) days before the return date of this motion.

Dated: White Plains, New York  
June 28, 2007

  
BY: RIK A. BACHMAN  
LAW OFFICE OF THOMAS K. MOORE  
Attorneys for Defendants/Third-Party Plaintiffs  
2100 WHITE PLAINS ROAD, LLC. and  
GALAXY MANAGEMENT, INC.  
701 Westchester Avenue, Suite 101 W.  
White Plains, New York 10604  
(914) 285-8500

TO: KLEIN CALDERON & SANTUCCI, LLP.  
Attorney for Plaintiff  
MAX SHNETMAN  
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(718) 319-1400

MICHAEL J. GARCIA  
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U.S. DEPARTMENT OF JUSTICE  
Attorneys for UNITED STATES OF AMERICA  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001  
Attn: Attorney General Alberto R. Gonzales

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

MAX SHNETMAN,

Plaintiff,

**AFFIRMATION IN  
SUPPORT**

-against-

2100 WHITE PLAINS ROAD, LLC. GALAXY  
MANAGEMENT, INC. "JOHN DOE", and JANE DOE,  
INC." (Said names being fictitious it being the intention of  
plaintiff to designate any and all owners of 2100 White Plains  
Road being sued herein),

Index number: 18068/2004

Defendants.

-----X  
2100 WHITE PLAINS ROAD, LLC., and GALAXY  
MANAGEMENT, INC.,

Index number: 85952/07

Third-Party Plaintiffs,

-against-

UNITED STATES OF AMERICA,

Third-Party Defendant.

-----X

RIK A. BACHMAN, an attorney duly admitted to the practice of law before the  
Courts of the State of New York, affirms the truth of the following under the penalties of  
perjury:

1. I am associated with the LAW OFFICE OF THOMAS K. MOORE, attorneys  
for the defendants/third party plaintiffs, 2100 WHITE PLAINS ROAD, LLC. and GALAXY  
MANAGEMENT, INC., and as such, I am fully familiar with the pleadings and proceedings  
had herein from a review of the file maintained by your affirmant's office.

2. This affirmation is submitted in support of the instant motion to take the default of third-party defendant, UNITED STATES OF AMERICA, and to seek to enter judgment against third-party defendant UNITED STATES OF AMERICA.

3. This is an action based on bodily injury as a result of a slip and fall on a patch of snow and ice alleged to be existing on the sidewalk at, 2100 White Plains Road, Bronx, New York.

4. Pursuant to agreement entered into between the UNITED STATES OF AMERICA (i.e. the US Postal Service) and movant, defendants/third-party plaintiffs, 2100 WHITE PLAINS ROAD, LLC. and GALAXY MANAGEMENT, INC., the third-party defendant, UNITED STATES OF AMERICA (i.e. the US Postal Service) was responsible for snow and ice removal and maintenance of the sidewalks adjacent to the corner property at 2100 White Plains Road, Bronx, New York, which the UNITED STATES OF AMERICA (i.e. the US Postal Service) is the sole tenant of. In addition the UNITED STATES OF AMERICA (i.e. the US Postal Service) has named, 2100 WHITE PLAINS ROAD, LLC, as an additional insured by written agreement and/or oral agreement and is also responsible for any injuries alleged to plaintiff by standards of common law negligence. Annexed hereto as EXHIBIT "A" is the Affidavit from George Tsilogiannis, member of 2100 WHITE PLAINS ROAD, LLC.

5. Moreover, it is clear from the deposition testimony of George Tsilogianis, that the responsibility for the sidewalk at issue in this lawsuit rests with third-party defendant,

UNITED STATE OF AMERICA (i.e. the US Postal Service). Annexed hereto as EXHIBIT "B" is Mr. Tsilogiannis's deposition transcript.

6. The alleged injury occurred on February 4, 2004.

7. This action was commenced on May 11, 2004, by service of the Summons and Verified Complaint upon the defendants/third-party plaintiffs, 2100 WHITE PLAINS ROAD, LLC, and GALAXY MANAGEMENT, INC. On October 4, 2004, a Verified Answer to the Complaint was served upon plaintiff, MAX SHNETMAN. Annexed hereto as EXHIBIT "C", is plaintiff's Summons and Complaint and defendants/third-party plaintiffs' Answer.

8. On May 17, 2007, defendants/third party plaintiffs, 2100 WHITE PLAINS ROAD, LLC., and GALAXY MANAGEMENT, INC., served and later filed a Statement Notice Pursuant to Rule 3402(b) of the CPLR, Third-Party Summons and Complaint upon, third-party defendant, UNITED STATES OF AMERICA, (Third-Party Summons and Complaint are annexed herewith as EXHIBIT "D").

9. Service was effectuated on third-party defendant, UNITED STATES OF AMERICA, on May 4, 2007 and May 9, 2007 and thereafter filed May 17, 2007 with the Clerk of BRONX County. Annexed hereto as EXHIBIT "E" is the Affidavit of Service.

10. Annexed hereto as EXHIBIT "F" is plaintiff's Bill of Particulars setting forth that this case alleges a slip and fall on snow and ice on the sidewalk adjacent to the premises at 2100 White Plains Road, Bronx, New York.


11. To date no appearance has been entered in this action by third-party defendant, UNITED STATES OF AMERICA.

12. The third-party defendant, UNITED STATES OF AMERICA, is now in default.

13. This application is made timely and no prior application for this same relief has ever been sought.

WHEREFORE, it is respectfully requested that this Court issue an Order directing the entry of judgment in favor of defendants/third-party plaintiffs and against the third-party defendant, for the relief demanded in the Third Party Summons and Complaint and directing the assessment of damages on the cause of action alleged in the complaint, and for such other and further relief as to the Court may seem just and proper.

Dated: White Plains, New York  
June 28, 2007

  
BY: RIK A. BACHMAN  
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2100 WHITE PLAINS ROAD, LLC. and  
GALAXY MANAGEMENT, INC.  
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TO: KLEIN CALDERON & SANTUCCI, LLP.

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Attn: Attorney General Alberto R. Gonzales